

1 **HIDEN, ROTT & OERTLE, LLP**
2 A Limited Liability Partnership
3 Including Professional Corporations
4 MICHAEL IAN ROTT, ESQ. (C.S.B. 169468)
5 ERIC M. OVERHOLT, ESQ. (C.S.B. 248762)
6 2635 Camino del Rio South, Suite 306
7 San Diego, California 92108
8 Telephone: (619) 296-5884
9 Facsimile: (619) 296-5171

10 *Attorneys for LILIA PERKINS*

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LILIA PERKINS, on behalf of herself
and all others similarly situated,

Plaintiff,

v.

PHILIPS ORAL HEALTHCARE, INC.,
a Washington Corporation; PHILIPS
ELECTRONICS NORTH AMERICA
CORPORATION, a Delaware
Corporation; and DOES 1 through 20,
inclusive.

Defendants.

CASE NO.: 12-cv-1414H BGS

Judge: Hon. Marilyn L. Huff

**DECLARATION OF MICHAEL IAN
ROTT IN SUPPORT OF MOTION
FOR ORDER OF PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT, SETTING FINAL
APPROVAL HEARING AND
APPROVAL OF NOTICES
THEREON**

Hearing Date:
Hearing Time:
Courtroom: 15A

I, Michael Ian Rott, hereby declare as follows:

1. I am an attorney at law duly licensed to practice before all of the courts of this state. I am a partner in the law firm of Hiden Rott & Oertle LLP, counsel of record for Plaintiff Lilia Perkins in the above-captioned matter. Based on my personal knowledge and my review of relevant records and documents in this matter, I could and would testify to the matters set forth herein if called upon to do so in any court of law.

2. Our firm spent significant time researching the product on the internet, reviewing

1 customer complaints on the internet, interviewing consumers of the product, including Plaintiff
2 and other putative class members, as part of our investigation. This level of informal discovery
3 allowed us to quickly and effectively evaluate the strengths and weaknesses of the lawsuit.

4 3. In addition, we interviewed several dentists to discuss the efficacy of oral irrigators
5 in general and the AirFloss specifically.

6 4. We have been informed by Defendants Philips Oral Healthcare, Inc. and Philips
7 North America Corporation (collectively, "Philips") that there are approximately 6,000 registered
8 AirFloss users in California.

9 5. We requested regional sales information from Philips, but Philips is not in
10 possession of data that would indicate how many people purchased an AirFloss in California, nor
11 do they know how many AirFloss units were shipped to California.

12 6. From the 6,000 registered units in California data, our Firm has extrapolated that
13 there are approximately 50,000 AirFloss owners in California.

14 7. On April 10, 2013, the parties appeared for an ENE in front of the Honorable
15 Judge Bernard G. Skomal

16 8. At the ENE, Judge Skomal assisted the parties in communicating the perceived
17 strengths and weaknesses with the parties' respective positions. By the end of the ENE, the
18 parties had a preliminary agreement on the amount of the vouchers for the class members. Over
19 the course of the next month Plaintiff's counsel and Philips engaged in continued negotiations
20 about notice procedures and attorney fees.

21 9. Based on these negotiations and our firm's own investigation, we believe that the
22 settlement is in the best interests of the putative class members. We have specifically balanced
23 the terms of the proposed settlement, including both the settlement amount and the benefits
24 conferred to class members against the probability of liability, the risk of non- certification, the
25 risks and expense of trial as well as concerns about the likelihood of numerous appellate issues.
26 We also considered the timing of recovery, delays in receipt of funds due to trial and potential
27 appeal and similar issues.

28 10. This firm, Hiden, Rott & Oertle, LLP, has extensive experience in Class Action

1 litigation. This firm has been class counsel in a number of class actions that have received final
2 approval for class action settlement before the San Diego Superior Court including *Moore and*
3 *Ramirez v. The Check Cashing Place, et al.* and *Tormey v. The Vons Companies, Inc., et al.* In
4 addition, myself and Eric M. Overholt were appointed to the Executive Committee in the
5 nationwide class action lawsuit against Apple, Inc over Apple deceptively advertising the iPhone
6 3G in *Gillis v. Apple, Inc.* (In re Apple iPhone 3G Products Liability Litigation) Additionally, I
7 and Mr. Overholt are co-counsel on a team that recently received class certification in *Herr, et al.*
8 *v. Apple, Inc.* in the San Diego Superior Court for deceptive advertising practices surrounding the
9 pricing structure of all iPhones sold at the Apple Store. Further, this Firm currently has a class
10 action pending in this Court for the 2011 Blackouts in *Busalacchi, et al. v. SDG&E* (12-CV-
11 00298-H). We are currently working on the briefing for the opposition to summary judgment in
12 that matter.

13 11. The Joint Stipulation of Settlement and Release negotiated and agreed to between
14 the parties is attached hereto as Exhibit 1.

15 I declare under penalty of perjury under the laws of the State of California that the
16 foregoing is true and correct and that this declaration was executed on May 28, 2013 at San
17 Diego, California.

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19 _____/s/ MICHAEL I. ROTT _____
20 Michael Ian Rott
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